

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KELLY NI,

Plaintiff,  
-against-

HSBC BANK USA, N.A.,

Defendants.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 12/13/2023

## ORDER

1:23-cv-01093 (AS) (KHP)

**KATHARINE H. PARKER, United States Magistrate Judge.**

The Court is in receipt of the parties' letter concerning discovery disputes in this action. (ECF No. 38.). These disputes should have been resolved without the need for court resolution.

First, as to depositions. There is no priority in depositions. It is improper for Defendant to withhold deposition dates simply because it does not have a date certain for Plaintiff's deposition. While it may be ideal to depose Plaintiff first, sometimes this timing simply does not work out. It is also improper for Plaintiff to refuse to provide a date certain for her deposition or object to her deposition simply because she was deposed by the same Defendant in a different case. Plaintiff shall sit for her deposition in this case on December 22, 2023. By December 15, 2023, Defendant shall provide dates certain for all the depositions noticed by Plaintiff (except to the extent it has no control over former employee Yang Vogel, in which case it shall supply Vogel's contact information for purposes of service of a third-party subpoena). Such depositions shall take place on or before December 29, 2023.

Second, Plaintiff's objection to Defendant's review of documents for relevance before producing them is without merit. The Federal Rules of Civil Procedure allow for discovery of information that is relevant and proportional to the needs of the case. Fed. R. Civ. P. 26(b).

Nothing in the Federal Rules prohibits a relevance review or permits Plaintiff to insist on receipt of irrelevant documents. Such reviews are routine and appropriate.

Finally, there is absolutely no basis for Plaintiff to object to production of documents concerning mitigation of damages. Therefore, any alleged need to meet and confer on this subject is without merit. By December 19, 2023, Plaintiff Ni shall produce documents related to her efforts to mitigate damage by seeking alternative employment.

**SO ORDERED.**

Dated: New York, New York  
December 13, 2023

*Katharine H. Parker*

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KATHARINE H. PARKER  
United States Magistrate Judge